

REMARKS

Reconsideration and allowance are respectfully requested. Claim 16 has been added. Claims 1-16 are pending.

The allowance of claims 12-15 is noted with thanks.

The Examiner rejected claim 1 under 35 U.S.C. 102(b) as being anticipated by Fawcett. This rejection is respectfully traversed.

The preamble of claim 1 recites "A method in a network switch". As specified in the MPEP §2111.02, Rev. 1, Feb. 2003 at page 2100-49: "Any terminology in the preamble that limits the structure of the claimed invention must be treated as a claim limitation." (Citing Corning Glass Works v. Sumitomo Elec. U.S.A., Inc., (See also MPEP §2111.02, Rev. 1, Feb. 2000 at page 2100-38: "In claims directed to articles and apparatus, any phraseology in the preamble that limits the structure of that article or apparatus must be given weight" (citing In re Stencel, 828 F.2d 751, 4 USPQ2d 1071 (Fed. Cir. 1987))) (See also Kropa v. Robie, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951)(preamble reciting "An abrasive article" deemed an essential limitation)). Fawcett fails to disclose a method in a network switch. Fawcett discloses method of validating data packets in a paging system.

Furthermore, claim 1 recites "receiving a data packet on one of a plurality of network switch ports. Fawcett does not disclose a plurality of network switch ports or receiving a data packet on a network switch port. The Examiner considers the receiving component 403 of Fawcett to be the claimed network switch port. However, Fawcett discloses at column 3, lines 34-36 that the "receiving component may be a paging terminal, receiver, paging transmitter, or transmitter controller". This is not a disclosure of receiving data on a network switch port.

Hence, the rejection should be withdrawn because it fails to demonstrate that Fawcett discloses each and every element of the claim. See MPEP 2131. "The identical invention must be shown in as complete detail as is contained in the ... claim." Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). "Anticipation cannot be predicated on teachings in the reference

Amendment Filed May 25, 2004
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which are vague or based on conjecture.” Studiengesellschaft Kohle mbH v. Dart Industries, Inc., 549 F. Supp. 716, 216 USPQ 381 (D. Del. 1982), aff’d, 726 F.2d 724, 220 USPQ 841 (Fed. Cir. 1984).

The indication that claims 2-11 contain allowable subject matter is noted with thanks. However, Applicants see no need in placing these claims in independent format since, for the reasons advanced above, claim 1 is considered to be allowable over the prior art of record.

Claim 16 has been added and is considered to be allowable over the prior art of record.

In view of the above, it is believed this application is in condition for allowance, and such a Notice is respectfully solicited.

To the extent necessary, Applicant petitions for an extension of time under 37 C.F.R. 1.136. Please charge any shortage in fees due in connection with the filing of this paper, including any missing or insufficient fees under 37 C.F.R. 1.17(a), to Deposit Account No. 50-0687, under Order No. 95-321, and please credit any excess fees to such deposit account.

Respectfully submitted,



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Date: May 25, 2004